

originating agency, inform the requester of the referral.

(g) If a document is declassified in its entirety, it may be released to the requester, unless withholding is otherwise warranted under applicable law. If a document or any part of it is not declassified, the Security Officer shall furnish the declassified portions to the requester unless withholding is otherwise warranted under applicable law, along with a brief statement concerning the reasons for the denial of the remainder, and the right to appeal that decision to the Commission within 60 days.

(h) If a declassification determination cannot be made within 45 days, the requester shall be advised that additional time is needed to process the request. Final determination shall be made within one year from the date of receipt unless there are unusual circumstances.

(i) In response to a request for information under the Freedom of Information Act, the Privacy Act of 1974, or the mandatory review provisions of Executive Order 12356, the Commission shall refuse to confirm or deny the existence or non-existence of requested information whenever the fact of its existence or non-existence is itself classifiable under Executive Order 12356.

§ 503.58 Appeals of denials of mandatory declassification review requests.

(a) Within 60 days after the receipt of denial of a request for mandatory declassification review, the requester may submit an appeal in writing to the Commission through the Secretary, Federal Maritime Commission, Washington, DC 20573. The appeal shall:

(1) Identify the document in the same manner in which it was identified in the original request;

(2) Indicate the dates of the request and denial, and the expressed basis for the denial; and

(3) State briefly why the document should be declassified.

(b) The Commission shall rule on the appeal within 30 days of receiving it. If additional time is required to make a determination, the Commission shall notify the requester of the additional time needed and provide the requester

with the reason for the extension. The Commission shall notify the requester in writing of the final determination and the reasons for any denial.

(c) A determination by the Commission under paragraph (b) of this section is final and no further administrative appeal will be permitted. However, the requester may be informed that suggestions and complaints concerning the information security program prescribed by Executive Order 12356 may be submitted to the Director, Information Security Oversight Office, GSA(AT), Washington, DC 20540.

§ 503.59 Safeguarding classified information.

(a) All classified information shall be afforded a level of protection against unauthorized disclosure commensurate with its level of classification.

(b) Whenever classified material is removed from a storage facility, such material shall not be left unattended and shall be protected by attaching an appropriate classified document cover sheet to each classified document.

(c) Classified information being transmitted from one Commission office to another shall be protected with a classified document cover sheet and hand delivered by an appropriately cleared person to another appropriately cleared person.

(d) Classified information shall be made available to a person only when the possessor of the classified information has determined that the person seeking the classified information has a valid security clearance at least commensurate with the level of classification of the information and has established that access is essential to the accomplishment of authorized and lawful Government purposes.

(e) The requirement in paragraph (d) of this section, that access to classified information may be granted only as is essential to the accomplishment of authorized and lawful Government purposes, may be waived as provided in paragraph (f) of this section for persons who:

(1) Are engaged in historical research projects, or

(2) Previously have occupied policy-making positions to which they were appointed by the President.

(f) Waivers under paragraph (e) of this section may be granted when the Commission Security Officer:

(1) Determines in writing that access is consistent with the interest of national security;

(2) Takes appropriate steps to protect classified information from unauthorized disclosure or compromise, and ensures that the information is properly safeguarded; and

(3) Limits the access granted to former presidential appointees to items that the person originated, reviewed, signed, or received while serving as a presidential appointee.

(g) Persons seeking access to classified information in accordance with paragraphs (e) and (f) of this section must agree in writing:

(1) To be subject to a national security check;

(2) To protect the classified information in accordance with the provisions of Executive Order 12356; and

(3) Not to publish or otherwise reveal to unauthorized persons any classified information.

(h) Except as provided by directives issued by the President through the National Security Council, classified information that originated in another agency may not be disseminated outside the Commission.

(i) Only appropriately cleared personnel may receive, transmit, and maintain current access and accountability records for classified material.

(j) Each office which has custody of classified material shall maintain:

(1) A classified document register or log containing a listing of all classified holdings, and

(2) A classified document destruction register or log containing the title and date of all classified documents that have been destroyed.

(k) An inventory of all documents classified higher than confidential shall be made at least annually and whenever there is a change in classified document custodians. The Commission Security Officer shall be notified, in writing, of the results of each inventory.

(l) Reproduced copies of classified documents are subject to the same accountability and controls as the original documents.

(m) Combinations to dial-type locks shall be changed only by persons having an appropriate security clearance, and shall be changed whenever such equipment is placed in use; whenever a person knowing the combination no longer requires access to the combination; whenever a combination has been subject to possible compromise; whenever the equipment is taken out of service; and at least once each year. Records of combinations shall be classified no lower than the highest level of classified information to be stored in the security equipment concerned. One copy of the record of each combination shall be provided to the Commission Security Officer.

(n) Individuals charged with the custody of classified information shall conduct the necessary inspections within their areas to insure adherence to procedural safeguards prescribed to protect classified information. The Commission Security Officer shall conduct periodic inspections to determine if the procedural safeguards prescribed in this subpart are in effect at all times.

(o) Whenever classified material is to be transmitted outside the Commission, the custodian of the classified material shall contact the Commission Security Officer for preparation and receipting instructions. If the material is to be hand carried, the Security Officer shall ensure that the person who will carry the material has the appropriate security clearance, is knowledgeable of safeguarding requirements, and is briefed, if appropriate, concerning restrictions with respect to carrying classified material on commercial carriers.

(p) Any person having access to and possession of classified information is responsible for protecting it from persons not authorized access to it, to include securing it in approved equipment or facilities, whenever it is not under the direct supervision of authorized persons.

(q) Employees of the Commission shall be subject to appropriate sanctions, which may include reprimand, suspension without pay, removal, termination of classification authority,

Federal Maritime Commission

§ 503.61

loss or denial of access to classified information, or other sanctions in accordance with applicable law and agency regulation, if they:

(1) Knowingly, willfully, or negligently disclose to unauthorized persons information properly classified under Executive Order 12356 or predecessor orders;

(2) Knowingly and willfully classify or continue the classification of information in violation of Executive Order 12356 or any implementing directive; or

(3) Knowingly and willfully violate any other provision of Executive Order 12356 or implementing directive.

(r) Any person who discovers or believes that a classified document is lost or compromised shall immediately report the circumstances to his or her supervisor and the Commission Security Officer, who shall conduct an immediate inquiry into the matter.

(s) Questions with respect to the Commission Information Security Program, particularly those concerning the classification, declassification, downgrading, and safeguarding of classified information, shall be directed to the Commission Security Officer.

[49 FR 44401, Nov. 6, 1984; 49 FR 47395, Dec. 4, 1984]

Subpart G—Access to Any Record of Identifiable Personal Information

§ 503.60 Definitions.

For the purpose of this subpart:

(a) *Agency* means each authority of the government of the United States as defined in 5 U.S.C. 551(1) and shall include any executive department, military department, government corporation, government controlled corporation or other establishment in the executive branch of the government (including the Executive Office of the President), or any independent regulatory agency.

(b) *Commission* means the Federal Maritime Commission.

(c) *Individual* means a citizen of the United States or an alien lawfully admitted for permanent residence to whom a record pertains.

(d) *Maintain* includes maintain, collect, use, or disseminate.

(e) *Person* means any person not an individual and shall include, but is not limited to, corporations, associations, partnerships, trustees, receivers, personal representatives, and public or private organizations.

(f) *Record* means any item, collection, or grouping of information about an individual that is maintained by the Federal Maritime Commission, including but not limited to a person's education, financial transactions, medical history, and criminal or employment history, and that contains the person's name, or the identifying number, symbol or other identifying particular assigned to the individual, such as a finger or voice print, or a photograph.

(g) *Routine use* means [with respect to the disclosure of a record], the use of such records for a purpose which is compatible with the purpose for which it was collected.

(h) *Statistical record* means a record in a system of records, maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, but shall not include matter pertaining to the Census as defined in 13 U.S.C. 8.

(i) *System of records* means a group of any records under the control of the Commission from which information is retrieved by the name of the individual or by some identifying number, symbol or other identifying particular assigned to the individual.

[49 FR 44401, Nov. 6, 1984; 49 FR 47395, Dec. 4, 1984]

§ 503.61 Conditions of disclosure.

(a) Subject to the conditions of paragraphs (b) and (c) of this section, the Commission shall not disclose any record which is contained in a system of records, by any means of communication, to any person or other agency who is not an individual to whom the record pertains.

(b) Upon written request or with prior written consent of the individual to whom the record pertains, the Commission may disclose any such record to any person or other agency.

(c) In the absence of a written consent from the individual to whom the record pertains, the Commission may